

DOCKET NO: 260087US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MASANORI SERA, ET AL. : EXAMINER: NUTTER, NATHAN M.
SERIAL NO: 10/511,099 :
FILED: JUNE 9, 2005 : GROUP ART UNIT: 1796
FOR: THERMOPLASTIC RESIN :
COMPOSITION

RESTRICTION RESPONSE

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement dated July 7, 2008, Applicants elect, with traverse, the invention of Group I, encompassing claims 9-18, drawn to a thermoplastic resin composition.

Applicants respectfully request that the Examiner vacate the restriction requirement and either place claims 9-28 in condition for allowance, or further examine these claims on their merits for patentability. The following two criteria must be met in order for a restriction requirement to be proper: (1) the claimed inventions must be independent or distinct; and (2) there must be a serious burden on the examiner if restriction is not required. See MPEP § 803(I). Applicants respectfully submit that neither of these criteria have been met and thus the restriction requirement was improper.

The Restriction Requirement dated July 7, 2008, alleges on page 2 that the invention of Group I, encompassing claims 9-18, and the invention of Group II, encompassing claims 19-28, are independent or distinct. Contrary to the Restriction Requirement however, the

invention of Group I overlaps in claim scope with the invention of Group II, as evidenced by the fact that both inventions are classified in class 525, subclasses 191 and 240. See MPEP § 806.05(j).

In addition, the subject matter presented in the invention of Group I (claims 9-18) and the invention of Group II (claims 19-28) finds clear support in the previously presented and examined claims 1, 2, 4 and 6-8. By virtue of having issued the Official Action dated March 24, 2008, finally rejecting claims 1, 2, 4 and 6-8, it is reasonable to conclude that the subject matter presented in the inventions of Groups I and II has already been treated on the merits with respect to patentability.

Moreover, claims 9-28 simply narrow the scope of the previously claimed invention, as illustrated herein below.

Claim 9 recites a thermoplastic resin composition comprising: 30-98 wt. % of a thermoplastic resin (1); and 2-70 wt. % of a higher α -olefin polymer (3) comprising ≥ 50 mol % of an α -olefin having 10 or more carbon atoms, wherein the higher α -olefin polymer (3) has a stereoregularity index M2 of ≥ 50 mol % and a single melting point (T_m) of 0°C to 100°C .

Previously examined claim 1 recited a thermoplastic resin composition comprising a thermoplastic resin (1) in an amount of 0.1 to 99.9% by mass and a higher α -olefin polymer (3) containing 50 mol% or more of an α -olefin having 10 or more carbon atoms in an amount of 0.1 to 99.9% by mass, wherein the higher α -olefin polymer (3) has a stereoregularity index M2 of 50 mol% or more and has one melting point (T_m) of 0 to 100°C .

Claim 19 recites a thermoplastic resin composition comprising: 10-94 wt. % of a thermoplastic resin (1); 5-70 wt. % of an elastomer (2); and 1-30 wt. % of a higher α -olefin polymer (3) comprising ≥ 50 mol % of an α -olefin having 10 or more carbon atoms, wherein

the higher α -olefin polymer (3) has a stereoregularity index M2 of ≥ 50 mol % and a single melting point (T_m) of 0°C to 100°C.

Previously examined claim 2 recited a thermoplastic resin composition comprising a thermoplastic resin (1) in an amount of 0.1 to 99.9% by mass, an elastomer (2) in an amount of exceeding 0% by mass and up to 99.8% by mass, and a higher α -olefin polymer (3) containing 50 mol% or more of an α -olefin having 10 or more carbon atoms in an amount of 0.1 to 99.9% by mass, wherein the higher α -olefin polymer (3) has a stereoregularity index M2 of 50 mol% or more and has one melting point (T_m) of 0 to 100°C.

Furthermore, the invention of Group II is a parallel claim set of the invention of Group I, wherein the invention of Group II merely comprises a single additional component, namely the previously examined elastomer component, not present within the Invention of Group I. Accordingly, further examination of these claims would not impose a serious burden on the Examiner once the restriction requirement is vacated.

Applicants respectfully request that the Examiner vacate the Restriction Requirement and either place claims 9-28 in condition for allowance, or further examine these claims on their merits for patentability.

In conclusion, Applicants submit that the present application is now in condition for allowance and notification to this effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



David P. Stitzel
Attorney of Record
Registration No. 44,360

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)